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Interim Lead Class Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DONALD R. CAMERON, *et al.*,

Plaintiffs,

v.

APPLE INC.,

Defendant.

No. 4:19-cv-03074-YGR

**DECLARATION OF STEVE W.
BERMAN IN SUPPORT OF
DEVELOPER PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF
SETTLEMENT AND RESPONSE TO
OBJECTORS**

Date: June 7, 2022
Time: 2:00 p.m.
Judge: Hon. Yvonne Gonzalez Rogers
Location: Courtroom 1- 4th Floor

1 I, STEVE W. BERMAN, declare as follows,

2 1. I am an attorney duly licensed to practice law before this Court. I am a member of the
3 Washington Bar, and I have been admitted to this Court *pro hac vice*. I am the managing partner of
4 the law firm Hagens Berman Sobol Shapiro LLP (“Hagens Berman”), attorneys for Developer
5 Plaintiffs (“Plaintiffs”) and appointed as Interim Lead Class Counsel by this Court. *See* Order
6 Granting Plaintiffs’ Motion for Appointment of Interim Lead Counsel and Executive Committee,
7 *Cameron et al. v. Apple Inc.*, No. 4:19-cv-0374-YGR (N.D. Cal. Oct. 10, 2019), ECF No. 65. Based
8 on personal knowledge or discussions with counsel in my firm of the matters stated herein, if called
9 upon, I could and would competently testify thereto.

10 2. Apple has shared with me that the annual transparency report that is described in
11 section 5.1.6 of the Settlement Agreement will include at least the following metrics:

- 12 • **With regard to apps**—the number of app submissions reviewed, the number of apps
13 rejected (with criteria specified such as performance, legal, design, business, safety,
14 or other), and the number of apps removed from the App Store.
- 15 • **With regard to developers**—the number of developer accounts deactivated (i.e.,
16 terminated).
- 17 • **With regard to customers**—the number of customer accounts deactivated, the dollar
18 value of fraudulent transactions halted, the number of visitors to the App Store per
19 week on a global basis, the number of downloads and redownloads per week on a
20 global basis, and the number of automatic and manual updates per week on a global
21 basis.
- 22 • **With regard to search**—the number of customer accounts that search per week on a
23 global basis and the number of apps appearing in the top 10 results in at least 1,000
24 searches in a week on a global basis.

25 3. Attached hereto as **Exhibit A** is a true and correct copy of the transcript of the April
26 27, 2022 Final Fairness Hearing in *Maldonado v. Apple Inc.*, Case No. 3:16-cv-04067-WHO (N.D.
27 Cal.), held before the Honorable William H. Orrick.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct. Executed this 29th day of April, 2022, at Seattle, Washington.

3
4 s/ Steve W. Berman
STEVE W. BERMAN

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1			
2	VICKY MALDONADO AND JUSTIN)	Case No. 3:16-cv-04067-WHO
3	CARTER, individually and on)	
4	behalf of themselves and all)	April 27, 2022
5	others similarly situated,)	
6)	San Francisco, California
7	Plaintiffs,)	Videoconference Hearing
8	vs.)	
9)	Final Fairness Hearing
10)	Pages 1 - 5
11	APPLE INC., APPLE CARE SERVICE)	
12	COMPANY, INC., AND APPLE CSC,)	
13	INC.,)	
14)	
15	Defendants.)	

BEFORE THE HONORABLE WILLIAM H. ORRICK
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

16	For the Plaintiffs:	STEVE W. BERMAN
17		Attorney at Law
18		Hagens Berman Sobol Shapiro LLP
19		1301 Second Avenue, Suite 2000
20		Seattle, WA 98101
21		
22		MICHELLA A. KRAS
23		Attorney at Law
24		Hagens Berman Sobol Shapiro LLP
25		11 West Jefferson, Suite 1000
26		Phoenix, AZ 85003
27	For the Defendants:	MEREDITH R. DEARBORN
28		Attorney at Law
29		Paul, Weiss, Rifkind, Wharton
30		& Garrison LLP
31		535 Mission Street, 24th Floor
32		San Francisco, CA 94105
33	Official Court Reporter:	CRYSTAL L. HICKS, CRR, RPR
34		United States District Courthouse
35		P.O. Box 700
36		Spokane, Washington 99210
37		(509) 458-3434

Proceedings reported by mechanical stenography; transcript
produced by computer-aided transcription.

1 (Court convened on April 27, 2022, at 1:57 p.m.)

2 THE COURTROOM DEPUTY: Now calling Case No. 16-4067,
3 *Maldonado v. Apple, Incorporated.*

4 Counsel, if you would please state your appearance for the
5 record.

6 MR. BERMAN: Good afternoon, your Honor. Steve Berman
7 on behalf of the plaintiffs.

8 THE COURT: Good afternoon.

9 MS. KRAS: Good afternoon, your Honor.

10 MS. DEARBORN: Good afternoon, your Honor.

11 MS. KRAS: Sorry.

12 MS. DEARBORN: Please go.

13 MS. KRAS: Michella Kras for the plaintiffs. I
14 apologize.

15 MS. DEARBORN: Apologies are mine. Good afternoon,
16 your Honor. Meredith Dearborn at Paul Weiss for Apple.

17 THE COURT: Good afternoon to everybody. And, again,
18 congratulations. This was an excellent settlement I think for
19 the class, and I think that's shown by the fact that there were
20 no objections and very few opt-outs. \$95 million on an untested
21 theory on a case that was in dire straights when Mr. Berman came
22 into the case I think was a testament to what a good settlement
23 it was, and it was obviously very hotly contested.

24 So I'm planning to grant approval of the settlement with
25 respect to the award of fees that the plaintiffs seek. The 29

1 percent of the award would be 3.58 times the lodestar, and I do
2 think that the case warrants a higher-than-the-benchmark rate.
3 I'm going to award 3.5 times the lodestar, which is
4 \$26,876,027.50, which is roughly 28.3 percent of the -- of the
5 total award.

6 I also agree that the service awards in this case that were
7 requested are appropriate in light of the discovery,
8 depositions, requiring several days out of work, the tenacious
9 nature of this litigation, and the length of time that it went
10 on.

11 So that's where I am, and I'll approve the costs as well.

12 So, Mr. Berman, do you want to say anything further?

13 MR. BERMAN: I don't, your Honor, except for -- well,
14 I noticed when I was getting ready that we did not attach the
15 proposed order, the list of exclusions, which I think should be
16 part of the judgment. So if it's okay with your Honor, we will
17 send you a Word version of that.

18 THE COURT: That would be great. I would appreciate
19 that.

20 MR. BERMAN: Other than that, I just say I appreciate
21 being in front of you once again and look forward to more cases.

22 THE COURT: Well, I'm fairly confident that I'll see
23 you again, Mr. Berman. And this really was quite a good result,
24 and you should feel good about what you did for the class.

25 So, Ms. Dearborn, is there anything else that you would

1 like to add at this time?

2 MS. DEARBORN: Nothing further, your Honor, other than
3 to -- also to thank the Court for your time and attention to
4 this matter over many years.

5 THE COURT: Well, I will look forward to seeing you
6 again as well. All right. Thank you all very much.

7 MR. BERMAN: Thank you, your Honor.

8 MS. DEARBORN: Thank you, your Honor.

9 (Court adjourned on April 27, 2022, at 2:00 p.m.)
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C E R T I F I C A T E

I, CRYSTAL L. HICKS, do hereby certify:


That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Spokane, Washington;

That the foregoing proceedings were taken on the date and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true, and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings;

DATED this 27th day of April, 2022.


CRYSTAL L. HICKS, CRR, RPR
Washington CCR No. 2955
Official Court Reporter
Spokane, Washington